

SITE DEVELOPMENT PERMIT AMENDMENT

FILE NO.	HA03-039-02
LOCATION OF PROPERTY	Westside of North First Street between Charcot Avenue and Karina Court (2211 North 1st Street)
ZONING DISTRICT	IP Industrial Park
GENERAL PLAN DESIGNATION	Transit Employment Center
PROPOSED USE	Site Development Permit Amendment to allow the removal of 107 trees (15 ordinance-size, 92 non-ordinance-size) and install fencing around the perimeter of the existing development with entrance pavilions on an approximately 32.1-gross acre site.
ENVIRONMENTAL STATUS	Exempt Pursuant to CEQA Section 15303(e) New Construction or Conversion of Small Structures
OWNER/APPLICANT ADDRESS	Timothy Ritz PayPal Inc 2211 North 1st Street San Jose, CA 95131

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located on the on the west side of North First Street, between Charcot Avenue to north, Karina Court to the south, and O'Nel Drive to the west. The approximately 32.1-gross acre campus is surrounded by a mix of office and industrial park uses to the north and west, as well as office, industrial park, and hotel uses to the east and south.
2. **Project Description.** This Site Development Permit Amendment allows the removal of 107 trees (15 ordinance-size, 92 non-ordinance-size) and the installation of fencing around the perimeter of the existing development with three entrance pavilions on the approximately 32.1-gross acre site.

The fencing would encircle the existing office campus. Three secure vehicle entries would be constructed at three parking lot entrances along Charcot Avenue, O'Nel Drive, and Karina Court. The three vehicular entrances would be upgraded to include a three-part drive aisle for visitor vehicles, employee vehicles, and an exit lane. A security pavilion would be constructed at each location along with a gateway trellis. Each pavilion would be approximately 139-square feet. Secure pedestrian entries would also be constructed throughout the perimeter of the campus.

In addition to the perimeter fencing and pavilions, the project would include the reconfiguration of portions of the surface parking area and landscaping areas to support the upgrades. 333 vehicle parking spaces area would be reconfigured for the site improvements and a total of 153 spaces would remain, for a net loss of 180 vehicle parking spaces.

3. **General Plan Conformance.** The subject site has a land use designation of Transit Employment on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation is applied to areas planned for intensive job growth because of their importance as employment districts to the City and high degree of access to transit and other facilities and services. To support San Jose's growth as a Regional Employment Center, it is useful to designate such key Employment Centers along the light rail corridor in North San José, in proximity to the BART and light rail facilities in the Berryessa/Milpitas area, and in proximity to light rail in the Old Edenvale area. All of these areas fall within identified Growth Areas and have access to transit and other important infrastructure to support their intensification. Uses allowed in the Industrial Park designation are appropriate in the Transit Employment Center designation, as are supportive commercial uses. There would be no change to the office campus use at the site.

Analysis: There would be no change to the existing office campus use on-site. The site would continue to function as a major employment center within North San Jose. The site and landscaping upgrades would not result in any change to the building square footage. The proposed site change would not change the ability employees of the site to access transit options.

In addition, the project is consistent with the following General Plan policies:

Business Growth and Retention IE-2.2: Attract and sustain a growing concentration of companies to serve as the economic engine for San José and the region, particularly in driving industries such as information and communication technologies, clean technology, bioscience, and other sectors based on creativity and innovation.

Community Design Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Community Design Policy CD-5.3: Promote crime prevention through site and building designs that facilitate surveillance of communities by putting "eyes on the street." Design sites and buildings to promote visual and physical access to parks and open space areas. Support safe, accessible, and well-used public open spaces by orienting active use areas and building facades towards them.

Community Design Policy CD-5.5: Include design elements during the development review process that address security, aesthetics and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

Analysis: The project would facilitate site design upgrade with additional security measures at the perimeter of the site. The project would promote the retention of a company that contributes to the economic vitality of the City of San Jose and contributes to the City's goal of a job-to-resident ratio of 1.1 jobs per employed resident. The up to seven-foot fence utilizes a mix of landscaping screen and fence designs to minimize the effect on the existing street presence and maintain a safe and engaging walking environment. The gates and pavilions would be setback from the property line and would be well integrated with the existing development. The pavilions, gates, and fencing would be aesthetically consistent with the existing buildings and proposed landscaping on-site. The seven-foot-high perimeter fencing would consist of multi-colored high-quality steel pickets with pedestrian entrances available throughout the project frontage.

4. **Zoning Conformance.** The project conforms in all respects to the provisions of Title 20 of the San José Municipal Code, including the development standards of the IP Industrial Park Zoning District. The project is subject to the following regulations of the Zoning Ordinance:

Development Standard	Required
Front setback	15 feet
Side setback	0 feet
Rear setback	0 feet
Maximum height	50 feet

Analysis: As discussed above, there would be no change to the existing buildings within the office campus. The project would allow the construction of three security pavilions, each being approximately 139-square feet, as well as site upgrades including the removal of parking and trees to accommodate the security pavilions and perimeter fencing. The pavilions would be setback at least 50 feet from the street and would have a maximum height of approximately 17 feet. Therefore, the project would conform with the required development standards of the IP Industrial Park Zoning District pursuant to Table 20-120, Section 20.50.200 of the Zoning Code.

Parking

Ratio Required	Parking Required	Provided
1 per 250 square feet of floor area (612,788 sf/250)	2,451 spaces	2,784 spaces

Analysis: The project includes the reconfiguration of portions of the parking lot to accommodate the construction of the security pavilions. The project would result in the net loss of 193 existing spaces.. Per Table 20-190, Section 20.90.060 of the Zoning Code, the required number of vehicle parking spaces at the site is 2,451 spaces. The total number of spaces provided, with the parking reconfiguration would be 2,748. There would be no changes to the existing bicycle or motorcycle parking provided on-site.

Tree Removals

The project includes the removal of 107 trees. The trees would be removed to allow the construction of the perimeter fencing, pavilions, and reconfiguration of portions of the parking lot. 73 trees would be protected in place. Of the 107 trees to be removed, 15 are ordinance-size (38 inches or greater in circumference) and 92 are non-ordinance-size (less than 38 inches in circumference). The trees to be removed include three (3) Deodar cedars, one (1) Trident maples, 69 Pears, and 34 sycamores. The removal of the 107 trees requires the replacement of 237 15-gallon trees on site. One 24-inch box tree may be planted in lieu of two 15-gallon trees. Therefore, the total number of required 24-inch box trees to be planted on-site, to mitigate the tree removals, is 119. Based on the landscape plan provided, the total number of trees to be replanted on site is 157. These include 62 Hedge maples, 17 Deodar cedars, 49 Western sycamores, 27 Coast live oaks, and two (2) Yoshino cherry trees. Additionally, 36 Western red cedars would be planted as 15-gallon trees elsewhere on-site.

5. Citywide Design Standards and Guidelines

The project is subject to the Citywide Design Standards and Guidelines, adopted by City Council in February 2021 (effective March 25, 2021). The project conforms with the following applicable standards and guidelines.

a. Section 2.2.2 Driveways and Vehicle Drop-offs

- i. Guideline 5 - When provided, security gates and check point kiosks must be set back a minimum of 50 feet from the back of curb to provide enough on-site queuing length for at least three vehicles to stack.

Analysis: As shown on the plan set, each gate would be setback a minimum of 50 feet from the street to avoid any issues with queuing. As discussed in the Operations Plan provided, employees and visitors will have entry confirmed via electronic access controls, which will lift a barrier arm to allow entry after a positive authorization has been completed. Manual opening and closing of the gates and barrier arms would be incorporated in the event it is needed. Fire Department and emergency service access would be provided in conformance with any Fire Department requirements at the Building Permit Application stage. A KnoxBox key switch would be provided, where necessary, for emergency access.

b. Section 2.3.8 Landscaping and Stormwater Management

- i. Standard 2 - Tree wells must be at least four feet larger than the tree trunk diameter at maturity.
- ii. Standard 3 - Designate 700 cubic feet of noncompacted soil for small trees, 1400 cubic feet of non-compacted soil for medium trees, and 2100 cubic feet of noncompacted soil for large trees to allow trees to reach their maturity. Structural soil systems, soil cells, or continuous trenches are example of ways to reach to the above soil volumes.
- iii. Standard 6 - Provide a maximum distance of 20 feet on center for small trees, 25 feet for medium trees, and 35 feet for large trees, or 75 percent of the mature canopy size distance for each tree type measured from the center. Locate new street trees and new on-site trees in relation to existing street trees and on-site trees to be retained to meet these maximum spacing dimensions.

Analysis: As shown on Sheet L-100, all proposed tree wells are four feet wider than the assumed trunk width at maturity. The minimum soil/structural soil pit width is 1,400 cubic feet for the Cherry and Hedge Map, and 2,100 cubic feet for the Coast live oak and Western sycamore trees. The maximum distance between proposed trees has been kept at 25 feet.

6. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project is exempt under Section 15303(e) for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). All construction would be temporary and would be limited to the removal of trees, reconfiguration of the parking lot, the construction of the security pavilions, and perimeter fencing. The site is not located within 500 feet of an existing residence.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, which findings are made for the Project based on the above-state findings related to General Plan, Zoning and CEQA conformance and for the reasons state below, and subject to the conditions set forth in this permit.
 - a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and

Analysis: As stated above, the project would be consistent with General Plan policies regarding community design, crime prevention, security and safety, and aesthetics. The project would allow the construction of security pavilions and perimeter fencing that would be well integrated with the existing office campus development. The project would include additional site and landscaping upgrades to further beautify the site. There would be no change to the existing office campus use on-site.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As stated above, the project is consistent with all applicable development standards of the IP Industrial Park Zoning District. There would be no change to the existing office buildings on-site. The project would include the construction of ancillary security pavilions at three of the primary entrances on-site. All of the security pavilions would conform with the required heights and setbacks of the IP Zoning District. The project would provide the required parking in conformance with Section 20.90.060 of the Zoning Code.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project is consistent with City Council Policy 6-30 Public Outreach Policy for Pending Land Use and Development Proposals. An on-site sign was posted on the project frontage. The project was noticed at a radius of 500 feet.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The gates and pavilions would be setback from the property line and would be well integrated with the existing development. The pavilions, gates, and fencing would be aesthetically consistent with the existing buildings and proposed landscaping on-site. The new pavilions would be approximately 139 square feet each and would have a maximum height of approximately 17 feet. The seven-foot-high perimeter fencing would consist of multi-colored high-quality steel pickets with pedestrian entrances available throughout the project frontage. Additional landscaping would be provided around portions of the fencing to further beautify the site.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The approximately 32.1-gross acre subject site is located adjacent to a mix of offices, industrial park, and hotel uses. The construction of the security pavilions would be setback from the street to avoid queuing and are designed to be compatible with the existing development on-site as well as the surrounding non-residential uses.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project is exempt under Section 15303(e) for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). All construction would be temporary and would be limited to the removal of trees, reconfiguration of the parking lot, the construction of the security pavilions, and perimeter fencing. The site is not located within 500 feet of an existing residence.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project would include significant landscaping changes to allow for the construction of the security pavilions, partial parking lot reconfiguration, and perimeter fencing installation. The project would include the planting of 157 trees on-site. As discussed, the project would be consistent with the Citywide Design Guidelines for Landscaping and Stormwater Management. The project would accommodate all landscaping, fencing, and security pavilions on-site.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: As described above, the proposed project contains adequate parking and pedestrian, bicycle, and vehicular access into the site. The security pavilions would be setback further into the site to avoid any issues with queueing. The project would be required to provide adequate access for emergency services.

2. Tree Removal Permit Findings. Section 13.32.100 of the San José Municipal Code specifies the required findings for live tree removals.

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or

Analysis: The project includes the removal of 107 trees. The trees would be removed to allow the construction of the perimeter fencing, pavilions, and reconfiguration of portions of the parking lot. 73 trees would be protected in place. Of the 107 trees to be removed, 15 are ordinance-size (38 inches or greater in circumference) and 92 are non-ordinance-size (less than 38 inches in circumference). The trees to be removed include three (3) Deodar cedars, one (1) Trident maples, 69 Pears, and 34 sycamores. The removal of the 107 trees requires the replacement of 237 15-gallon trees on site. One 24-inch box tree may be planted in lieu of two 15-gallon trees. Therefore, the total number of required 24-inch box trees to be planted on-site, to mitigate the tree removals, is 119. Based on the landscape plan provided, the total number of trees to be replanted on site is 157. These include 62 Hedge maples, 17 Deodar cedars, 49 Western sycamores, 27 Coast live oaks, and two (2) Yoshino cherry trees. Additionally, 36 Western red cedars would be planted as 15-gallon trees elsewhere on-site.

In accordance with the findings set forth above, a Site Development Permit Amendment for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Site Development Permit Amendment within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Site Development Permit Amendment shall automatically expire four (4) years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to

implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit Amendment plans entitled, "Paypal Campus Security Upgrades" dated June 14, 2021, last revised on October 15, 2021 on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Public Works Grading Permit Application or a complete Building Permit Application has been filed.
7. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
8. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
9. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
10. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
11. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
12. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
13. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.

14. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
16. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
17. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
19. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
20. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
21. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
22. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
23. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
24. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

25. **Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in the table below, as amended.

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees</p> <p>Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.</p>				

- Since 107 trees onsite would be removed, 119 24-inch box trees would be required to be replaced. As shown on the approved plan set, the total number of replacement trees to be planted would be 156 24-inch box trees.
- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
 - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
 - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

26. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The

request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

27. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, HA03-039-02 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Other.* Such other requirements as may be specified by the Chief Building Official.
28. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code.
29. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Grand Boulevard:** This project fronts North First Street, which is designated as one of the seven Grand Boulevards per the Envision San Jose 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
 - c. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.

- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The project's Stormwater Control Plan and numeric sizing calculations are have been reviewed and are in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

f. **Flood: Zone X and AO depth 1':**

- i. The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.
- ii. The project site does not trigger any floodplain requirements for flood Zone AO.

g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

h. **Assessments:** This project is located within Maintenance District 13 (Karina & O'Nel), which maintains the enhanced landscaped median islands on O'Nel Dr. and Karina Court, the water feature elements in the street, and decorative paving on O'Nel Dr.

i. **Street Improvements:**

- i. Reconstruct all driveways to current City and ADA Standards.
- ii. Close unused driveway(s).
- iii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- iv. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.

j. **Electrical:**

- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- iii. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
- iv. Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.

k. **Street Trees:** If tree pruning is necessary, a pruning permit and inspection will be required by the Department of Transportation

30. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **17th day of November, 2021.**

CHRISTOPHER BURTON, Director
Planning, Building, and Code Enforcement

Deputy

CC:
William Turner
424 Waverly Street
Palo Alto, CA 94301